

**WORTHINGTON CITY COUNCIL  
REGULAR MEETING, MARCH 25, 2013**

The meeting was called to order at 7:00 p.m. in City Hall Council Chambers by Mayor Alan E. Oberloh with the following Council Members present: Mike Kuhle, Diane Graber, Rod Sankey, Ron Wood, Scott Nelson. Honorary Council Member: Carl Nagel.

Staff present: Craig Clark, City Administrator; Mike Cumiskey, Public Safety Director; Dwayne Haffield, Director of Engineering; Brad Chapulis, Director of Community/Economic Development; Janice Oberloh, City Clerk; Myra Onnen, Community Services Officer.

Others present: Aaron Hagen, Daily Globe; Mike Woll; Donna Pueppke; Bill Baker.

The Pledge of Allegiance was recited.

**HONORARY COUNCIL MEMBER**

Mayor Oberloh introduced Carl Nagel as the Honorary Council Member for the months of March, April, and May, 2013.

**AGENDA APPROVED/CLOSED**

The motion was made by Council Member Wood, seconded by Council Member Nelson and unanimously carried to close the agenda as presented.

**CONSENT AGENDA APPROVED WITH CHANGE**

Mayor Oberloh requested that item 4.b. 1. *Approve Annual Park Concession Permit Fees* be pulled from the agenda for future discussion.

The motion was made by Council Member Wood, seconded by Council Member Graber and unanimously carried to pull item 4.b.1., and approve the consent agenda as follows:

- City Council Minutes of Special Meeting March 8, 2013; City Council Minutes of Regular Meeting March 11, 2013
- Park and Recreation Advisory Board Minutes of March 11, 2013
- Application from the International Festival Committee to block the following streets for the 2013 Worthington International Festival from 12:00 p.m. on Friday, July 12<sup>th</sup> to 12:00 midnight on Saturday:
  - Third Avenue between Ninth and Tenth Streets
  - Fourth Avenue between Ninth and Tenth Streets
- Application to block streets from the Solid Rock Assembly Church for their annual motorcycle rally/ride as follows: South Shore Drive from Flower Lane to Linda Lane, 11:30 a.m. to 12:45 p.m. on Sunday, May 19, 2013
- Approved the 2013 Annual Adult Soccer League fees as presented

- Approved the 2013 Worthington Girls' Softball League fees as presented
- Bills payable and totaling \$427,965.55 be ordered paid

#### **REQUEST FOR CHANGE TO ANIMAL CONTROL ORDINANCE TABLED**

Donna Pueppke and Bill Baker were present at the meeting to request a change to the City's animal control ordinance that would allow agricultural animals to be present for sale at the local farmers markets to accommodate the cultures that desire fresh slaughter of their food animals. Specifically, goats, rabbits, chickens, ducks, and turkeys. Ms. Pueppke said the Community Services Officer had informed her that, under the City's current ordinance, the animals were not allowed on-site at the market within the city limits. Mayor Oberloh replied that it is his thought that our ordinance should be tighter, and call for registration of the animals/produce so if someone became sick its origin could be traced. Council Members Wood and Nelson said they didn't interpret the ordinance to prohibit having the animals at the market. Council Member Kuhle suggested the ordinance be referred back to the City Attorney for his interpretation.

Council Member Wood said he would like to table the request for staff to complete additional research and bring back a recommendation. Craig Clark, City Administrator, will provide Ms. Pueppke with the outcome of staff findings.

#### **ON-SALE LIQUOR LICENSE APPROVED - WORTHINGTON EVENT CENTER**

The motion was made by Council Member Wood, seconded by Council Member Sankey and unanimously carried to approve an On-Sale Liquor License to the Worthington Hotel Group, LLC., d.b.a. the Worthington Event Center, for the license period May 1-June 30, 2013, the expiration date set by the State of Minnesota. The license will be issued under MS § 340A.404. Subd. 1(c), which states:

*(c) A city may issue an on-sale intoxicating liquor license, an on-sale wine license, or an on-sale malt liquor license to a convention center within the city, notwithstanding any law, local ordinance, or charter provision. A license issued under this paragraph authorizes sales on all days of the week to persons attending events at the convention center. This paragraph does not apply to convention centers located in the seven-county metropolitan area.*

As stated, the license authorizes on-sale liquor sales on all days of the week, including Sundays, to persons attending events at the Event Center.

#### **NOMINATING COMMITTEE RECOMMENDATION FOR COMMITTEE APPOINTMENTS/REAPPOINTMENTS APPROVED**

The Nominating Committee met on Monday, March 18, 2013 to consider upcoming term expirations on the Water and Light Commission and the Economic Development Revolving Loan Fund Committee. The Committee voted unanimously to recommend the following appointments/reappointments :

Water and Light Commission - Reappoint Randy Thompson for his third 3-year term, which term will expire April, 2016 - current term expires in April, 2013.

Reappoint Ron Wood for his second 3-year term, which term will expire April, 2016 - current term expires April, 2013

Econ. Dev. Revolving Loan Fund - Appoint Ryan Weber to fill the unexpired 2-year term of Gary Kellen, which term expires January, 2014

The motion was made by Council Member Nelson, seconded by Council Member Kuhle and unanimously carried to approve the Committee appointments/reappointments as recommended by the Nominating Committee.

**CONTRACTS AWARDED FOR MUNICIPAL WASTEWATER TREATMENT FACILITY  
AND INDUSTRIAL WASTEWATER TREATMENT FACILITY DE-CHLORINATION  
IMPROVEMENT PROJECTS**

The following bids were received at 2:00 p.m. on Monday, March 25, 2013 for the Municipal Wastewater Treatment facility and Industrial Wastewater Treatment Facility De-Chlorination Improvements projects:

	<u>Industrial Process Technology , Inc.</u>	<u>KHC, Inc</u>	<u>Robert L. Carr Co.</u>
Bid Item #1 (Ind. WWTF)	\$157,900	\$150,000	\$145,000
Bid Item #2 (Mun. WWTF)	\$157,900	\$147,000	\$142,000
Total Bid	<u>\$315,800</u>	<u>\$297,000</u>	<u>\$287,000</u>

Engineer's estimate for total bid for the projects was \$242,000. Dwayne Haffield, Director of Engineering, said the low bid was about 18.5% over the Engineer's estimate for the project, however, after reviewing the bids with the General Manager of Utilities, it was decided that a rebid

was not warranted. Staff was recommending award of the bid to Robert L. Carr. Co., Marshall, MN, as the low qualified bidder.

Following discussion, the motion was made by Council Member Wood, seconded by Council Member Nelson and unanimously carried to award the bid for the Municipal Wastewater Treatment facility and Industrial Wastewater Treatment Facility De-Chlorination Improvements projects to Robert L. Carr Co. as the low qualified bidder in the amount of \$287,000.

### **RESOLUTION ADOPTED ESTABLISHING A COMPLETE STREETS POLICY**

At their December 10, 2012 meeting, Council adopted a resolution affirming its support of Complete Streets and the need to provide transportation for all users of all ages and abilities as reasonably practicable. In keeping with the resolution, Dwayne Haffield, Director of Engineering, along with Mike Woll and Greta Farley, worked to develop a Complete Streets Policy, which was reviewed and endorsed by the Planning Commission at its March 5, 2013 meeting.

Following a power point presentation that noted the benefits of complete streets, the motion was made by Council Member Wood, seconded by Council Member Kuhle and unanimously carried to adopt the following resolution providing establishing a Complete Streets policy:

#### **RESOLUTION A RESOLUTION ESTABLISHING A COMPLETE STREETS POLICY.**

WHEREAS, it is the purpose of complete streets to create transportation corridors that are safe, functional and aesthetically attractive for all users;

AND WHEREAS, the mobility of freight and passengers and the safety, convenience, and comfort of motorists, cyclists, pedestrians - including people requiring mobility aids, transit riders, and neighborhood residents of all ages and abilities should all be considered when planning and designing Worthington's streets;

AND WHEREAS, integrating sidewalks, bike facilities, and safe crossings into the initial design of street projects avoids the expense of retrofits later;

AND WHEREAS, streets are a critical component of public space and play a major role in establishing the image and identity of a city, providing a key framework for current and future development;

AND WHEREAS, active living integrates physical activity into daily routines and active living communities encourage individuals of all ages and abilities to be more physically active;

AND WHEREAS, communities that support active living strive to create amenities that will enhance the quality of life of its residents, improve the physical and social environment in ways that attract businesses

and workers, and contribute to economic development;

AND WHEREAS, the goal of complete streets is to improve the access and mobility for all users of streets in the community by improving safety through reducing conflict and encouraging non-motorized transportation;

AND WHEREAS, it is recognized that there are some streets or corridors in the City which would not fully satisfy a complete streets environment;

NOW THEREFORE, Be It Resolved that the City Council of the City of Worthington, Minnesota establish a Complete Streets Policy that provides as follows:

1. The City of Worthington will, whenever it is economically feasible, seek to enhance the safety, access, convenience and comfort of all users of all ages and abilities, including bicyclists, pedestrians (including people requiring mobility aids), motorists and freight drivers, through the design, operation and maintenance of the transportation network so as to create a connected network of facilities accommodating each mode of travel that is consistent with and supportive of the local community, recognizing that all streets are different and that the needs of various users will need to be balanced in a flexible manner.
2. Unless one or more of the conditions set forth in Section 4 exist, transportation improvements will include appropriate facilities and amenities that are recognized as contributing to complete streets, which may include street and sidewalk lighting; sidewalks and pedestrian safety improvements such as median refuges or crosswalk improvements; improvements that provide ADA (Americans with Disabilities Act) compliant accessibility; bicycle accommodations including bicycle parking, bicycle routes, shared-use lanes, wide travel lanes or bike lanes as appropriate; and street trees, boulevard landscaping, street furniture and adequate drainage facilities.
3. Early consideration of all modes for all users will be important to the success of this Policy. Those planning and designing street projects will give due consideration to bicycle, pedestrian, from the very start of planning and design work. This will apply to all roadway projects, including those involving new construction, full reconstruction, or changes in the allocation of pavement space on an existing roadway such as the reduction in the number of travel lanes or removal of on-street parking.
4. Bicycle, pedestrian and transit facilities will be considered when developing street construction, reconstruction, re-paving, and re-habilitation projects, except under one or more of the following conditions:
  - A. Reconstruction or re-paving of a street, excluding collector and arterial streets, which does not involve substantial curb removal.
  - B. A project involves only ordinary maintenance activities designed to keep assets in serviceable condition, such as mowing, cleaning, sweeping, spot repair, concrete joint repair, or pothole filling, or when interim measures are implemented on temporary detour

or haul routes.

- C. The City Engineer, with Council consultation, determines there are relatively high safety risks.
  - D. The City Council exempts a project due to excessive and disproportionate cost of establishing a bikeway or walkway as part of a project.
  - E. It is determined that the construction is not practically feasible or cost effective for reasons including, but not limited to: significant or adverse environmental impacts to streams, floor plains, remnants of native vegetation, wetlands, steep slopes or other critical areas; or due to impacts on neighboring land uses, including impact from right-of-way acquisition.
5. It will be important to the success of the Complete Streets policy to ensure that the project development process includes early consideration of the land use and transportation context of the project, the identification of gaps or deficiencies in the network for various user groups that could be addressed by the project, and an assessment of the tradeoffs to balance the needs of all users. The context factors that should be given high priority include the following:
- A. Whether the corridor provides a primary access to a significant destination such as a community or regional park or recreational area, a school, a shopping/commercial area, or an employment center;
  - B. Whether the corridor provides access to across a natural or man-made barrier such as a river or freeway;
  - C. Whether the corridor is in an area where a relatively high number of users of non-motorized transportation modes can be anticipated;
  - D. Whether a road corridor provides important continuity or connectivity links for an existing trail or path network; or
  - E. Whether nearby routes that provide a similar level of convenience and connectivity already exists
6. The design of new or reconstructed facilities should anticipate likely future demand for bicycling, walking and transit facilities and should not preclude the provision of future improvements. (For example, under most circumstances, bridges, which last for 75 years or more, should be built with sufficient width for safe bicycle and pedestrian use in anticipation of a future need for such facilities.)
7. The City will maintain a comprehensive inventory of the pedestrian and bicycling facility infrastructure integrated with City street and utility maps and will carry out projects to reduce gaps in the sidewalk and trail networks.

8. Complete streets may be achieved through single projects or incrementally through a series of smaller improvements or maintenance activities over time.
9. The City will generally follow accepted or adopted design standards when implementing improvements intended to fulfill this Complete Streets policy but will consider innovative or non-traditional design options where a comparable level of safety for users is present.
10. The City will develop implementation strategies that may include evaluating and revising manuals and practices, developing and adopting network plans, identifying goals and targets, and developing methods to evaluate success.
11. This policy will provide notification to Parks and Recreation for review of impacts to street trees and incorporate recommendations into design consideration.
12. The City Engineer shall be responsible for developing and implementing the Complete Streets Policy through the recommendations of project to the City Council.

BE IT FURTHER RESOLVED, that the feasibility report prepared for a street project shall address this policy.

Adopted by the City Council of the City of Worthington, Minnesota, this the 25<sup>th</sup> day of March, 2013.

#### **FINAL PLAT APPROVED - McDONALD'S ADDITION**

McDonald's USA was requesting final plat approval of McDonald's Addition - a two lot commercial subdivision on approximately 3.188 acres located directly west of the intersection of Ray Drive and Humiston Avenue. Council approved the preliminary plat at their October 8, 2012 meeting contingent on the applicant recording the deed for the former MnDOT right-of-way along Humiston Avenue. The City has received the appropriate funds for the recording fees. The applicable public infrastructure improvements are already abutting the subject property.

The motion was made by Council Member Wood, seconded by Council Member Nelson and unanimously carried to approve the Final Plat - McDonald's Addition as presented.

#### **REVOLVING LOAN FUND LOAN DEFERMENT APPROVED - LIVING LIFE ADULT DAY CENTER**

In May of 2012, the City of Worthington agreed to loan \$80,000 to Living Life Adult Day Center, LLC to assist in financing its total start up expenses of \$632,000. Since opening its doors in September 2012, the Company has been unable to obtain the clientele numbers necessary to fully stabilize its cash flow to support operating expenses. The Company is working with the County's Family Service staff regarding lack of referrals from that agency to come to resolution. First State

Bank Southwest, the lead lender for the project, was requesting that all of the lenders agree to defer their loan payments for a period of three months to allow the company to improve its financial position. First State Bank and the Southwest Initiative Foundation have already approved the deferment, and SBA (Prairieland EDC) is considering the request. Providing the three month deferment will assist the company and possibly prevent eventual foreclosure. Staff noted that, being the most subordinate lender (4<sup>th</sup> position on real estate and 2<sup>nd</sup> position on M & E), a foreclosure would likely result in a loss of the City's loan proceeds.

The RLF Loan Committee considered the request at their March 25, 2013 meeting and voted unanimously to recommend approval of the deferral, provided that all four lenders do the same.

The motion was made by Council Member Wood and seconded by Council Member Kuhle to approve the three-month loan deferral for Living Life Adult Day Center as requested, provided that all loan parties agree to the deferral. The following Council Members voted in favor of the motion: Kuhle, Sankey, Wood, Nelson; with the following Council Members voting against the same: Graber. Motion carried.

#### **REVOLVING LOAN FUND LOAN APPLICATION APPROVED - BIOVERSE**

Bioverse, Inc. submitted an application for a revolving loan in the amount of \$76,000 for the purchase of manufacturing equipment that would increase capacity of one of its products. The Revolving Loan Fund (RLF) Committee met on March 25, 2013 and reviewed the request against the following RLF Guidelines:

1. Equity Requirements- The guidelines require a minimum of 10% preferably 20% of the total assets of the company after the new loans are included. The applicant was proposing no equity towards the purchase to preserve its equity for the purchase of additional equipment later this year. The company was proposing to compensate for the lack of capital by providing collateral beyond the machinery to be purchased with the loan proceeds.
2. Interest Rate - While the guidelines direct revolving loans not to exceed four to five points below the going treasury rate, the interest rate for this loan proposed was established through the execution of a Memorandum of Understanding (MOU) between the company and the City of Worthington. The MOU indicates that the City would consider an RLF loan for an amount not to exceed \$75,000 with the following terms: 5 year amortization and 2% interest rate.
3. Eligible Costs - The applicant is proposing to use funds from the RLF for the purchase of equipment, which is an eligible cost under the RLF guidelines.
4. Private-Public Ratio - Under the proposed financial structure of this project, the public-



private ration is 0 to 1. The RLF guidelines require a minimum ratio of 2 to 1.

5. Job Creation - The guidelines require one full-time equivalent (FTE) be created for each \$5,000 to \$20,000 of public money involved. According to the application, the applicant currently employs 10 full-time employees and intends to employ one additional FTE in the near future. With 11 FTE, the company expects to have annual payroll of \$490,000, which would indicate an average annual salary of \$44,545. Based on the employment information, the applicant will have two years to create the one FTE job.
6. Loan Term - The MOU between the City and Bioverse called for a loan term not to exceed 5 years.
7. Collateral Position - The applicant was proposing a 2<sup>nd</sup> position on all of the company's machinery and equipment. The first position is held by Ag Star, along with pro rated personal guarantees from the four principal owners. Personal guarantees are not being offered with this loan. The Company believes that the personal guarantees essentially provide assurance that the proposed 2<sup>nd</sup> position will be fully covered by the value of the company's current and future machinery and equipment. An inventory list of all of the existing machinery and equipment was not provided.

The RLF Committee reviewed the application and discussed equity, collateral and job creation, and, with terms already determined in the MOU between the City and applicant, concluded that the loan needed to comply with the guidelines regarding these three items. Following their review and discussion, the RLF Committee voted unanimously to forward a recommendation to Council for approval of the loan to purchase specified equipment subject to the following conditions:

1. Loan not to exceed \$75,000;
2. Applicant must provide 10% equity to the project;
3. Obtaining a second position on all of the company's M & E and accounts receivable;
4. Insurance illustrating the City as a lost payee;
5. The creation of 3 FTE with a wage not to be less than \$10.00 per hour. Jobs must be created within 2 years from the date of the loan agreement; and
6. Applicant reimburses the City for the attorney fees affiliated with the closing costs of the project, which include drafting and filing of applicable documentation.

Council discussed taking the second position on the equipment. In response to a question from Council Member Wood, Brad Chapulis, Director of Community/Economic Development, said the company had not yet been audited so there were no audited financials available for review.

The motion was made by Council Member Sankey, seconded by Council Member Kuhle and unanimously carried to approve the Revolving Loan Fund application to Bioverse in the amount of

\$68,400, based on the applicant providing 10% equity.

### **COUNCIL COMMITTEE REPORTS**

Mayor Oberloh - Attended a joint City/County/School/Township meeting in St. Paul - met with our Legislators. Also met with Governor Dayton to enlist his help in getting money from the Federal Government for the Lewis and Clark project. The Governor would like to have his pheasant opener next year in Worthington.

Council Member Kuhle - Had a SRDC meeting last week - talked about their legislative committee recommendations - what they want to push at the legislature - Lewis and Clark was under general support of water projects. Noted that they don't have a representative from Nobles County of towns under 10,000 - must be an elected official - he will provide the information to the Administrator.

Council Member Graber - No committee reports but attended a legislative meeting in Slayton with Craig Clark.

Council Member Sankey - Nothing other than the RLF Committee, which has been discussed.

Council Member Wood - There is a Nobles County/City of Worthington Joint Jurisdiction meeting scheduled for 6 p.m. on Wednesday at the Nobles County Public Works building.

Council Member Nelson - Nothing to report.

### **CITY ADMINISTRATOR'S REPORT**

Craig Clark, City Administrator, added to the Mayor's comments that the time with the Governor was time well spent - we made our points about Lewis and Clark and our investment, along with the other communities. A recent article in the Star Tribune indicates that Senator Franken is also pushing for the Lewis and Clark funding. Also made points about the new LGA formula, which has broad consensus from small, medium and large cities.

### **ADJOURNMENT**

The motion was made by Council Member Wood, seconded by Council Member Nelson and unanimously carried to adjourn the meeting at 8:29 p.m.

Janice Oberloh, MCMC  
City Clerk